

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

v.

No. 16-cv-499-JB-KRS
07-cr-1164-JB

ROBERT L. HAMMONS,

Defendant/Movant.

ORDER DENYING HEARING REQUEST

Before the Court is Robert L. Hammons' motion seeking an emergency hearing to demonstrate that his incarceration is unlawful [Doc. 3]. Hammons filed the motion on May 27, 2016 in connection with his *pro se* 28 U.S.C. § 2241 habeas corpus petition [Doc. 1]. Thereafter, counsel was appointed and the petition was amended to seek relief under § 2255 and *Johnson v. United States*, 576 U.S. ___, 135 S. Ct. 2551 (2015) [Doc. 6]. After reviewing the parties' submissions, the Court filed proposed findings and conclusions recommending that Hammons' § 2255 motion be granted [Doc. 33]. The United States did not object. To the extent the hearing request is not moot, the Court, in its discretion, determines such relief is unnecessary. *United States v. Moya*, 676 F.3d 1211, 1214 (10th Cir. 2012) ("District courts are not required to hold evidentiary hearings in collateral attacks without a firm idea of what the testimony will encompass and how it will support a movant's claim.").

It is therefore **ORDERED** that the motion [Doc. 3] is **DENIED**.



KEVIN R. SWEAZE
UNITED STATES MAGISTRATE JUDGE